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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION
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13 UNITED STATES OF AMERICA,) No. CR-03-40049-DLJ
14 Plaintiff,)
15 v.) PLEA AGREEMENT
16 NIMFA MONTES BEREDO)
17 (aka Patricia Beredo),)
18 Defendant.)

19 I, Nimfa Montes Beredo (aka Patricia Beredo), and the United States Attorney's Office for the
20 Northern District of California (hereafter "the government") enter into this written plea
21 agreement (the "Agreement") pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal
22 Procedure:

23 The Defendant's Promises

24 1. I agree to plead guilty to counts seven, eight, and eleven of the captioned
25 superseding indictment charging me as follows: wire fraud, in violation of 18 U.S.C. § 1343
26 (count seven); unauthorized use of an access device, in violation of 18 U.S.C. § 1029(a)(2)
27 (count eight); and money laundering through conducting financial transactions to promote
28 unlawful activity, in violation of 18 U.S.C. § 1956(a)(1)(a)(i) (count eleven). I agree that the

1 elements of each offense and the maximum penalties for each offense are as follows:

2 A. For the offense of wire fraud (count seven), the elements are (1) the defendant
3 devised or participated in scheme or plan to obtain money or property by making false statements
4 or promises; (2) the defendant knew the promises or statements were false; (3) the promises or
5 statements were material, that is they would reasonably influence a person to part with money or
6 property; (4) the defendant acted with the intent to defraud; and (5) the defendant used the wires
7 or caused them to be used to carry out or to attempt to carry out an essential part of the scheme.

8 The maximum penalties for the offense of wire fraud are as follows:

- | | | | |
|----|-----|--|--|
| 9 | (1) | Maximum prison sentence | 5 years |
| 10 | (2) | Maximum fine | \$250,000 or twice the gross
11 gain or gross loss resulting
12 from the offense, whichever
is greatest |
| 13 | (3) | Maximum supervised release term | 3 years |
| 14 | (4) | Mandatory special assessment | \$100 |
| 15 | (5) | Restitution | As ordered by the Court |
| 16 | (6) | Other possible consequences of guilty plea: | |
| 17 | i. | Deportation; and | |
| 18 | ii. | I understand that, because I am pleading guilty to more
19 than one count, the Court may order the sentences on
those counts to run consecutively. | |

20 B. For the offense of unauthorized use of an access device (count eight), the
21 elements are: (1) the defendant knowingly used one or more unauthorized access devices at any
22 time during the one-year period beginning in or about March 2002 and continuing through in or
23 about February 2003; (2) by using the unauthorized devices during that period, the defendant
24 obtained things of value, their value together totaling more than \$1,000; (3) the defendant acted
25 with the intent to defraud; and (4) the defendant's conduct affected interstate or foreign
26 commerce. The maximum penalties for the offense of use of an unauthorized access device are
27 as follows:

- | | | | |
|----|-----|-------------------------|----------|
| 28 | (1) | Maximum prison sentence | 10 years |
|----|-----|-------------------------|----------|

1 2. I agree that I am guilty of the offenses to which I will plead guilty, and I agree that
2 the following facts are true:

3 Wire Fraud and Money Laundering

4 Beginning in or about January 1997 and continuing until in or about February 2003, in the
5 Northern District of California and elsewhere, I knowingly devised and intended to devise a
6 scheme to defraud investors out of more than \$3 million by making false and fraudulent
7 statements and promises. More specifically, during that time period and as part of my scheme to
8 defraud, I solicited and induced investors or lenders to provide money to me. I induced these
9 individuals to invest in my purported business venture by falsely claiming that I was in the
10 business of negotiating contracts with airline carriers to purchase airline tickets in bulk at a
11 discounted rate, that I maintained several such contracts, that I would use the investors' money to
12 purchase airline tickets in bulk at a discounted rate, and that I would resell those tickets at a
13 significant profit. I falsely guaranteed various investors that they would earn returns of 5% per
14 day, per week, or per month. As part of my scheme, I used the proceeds from the investments I
15 received from new victims to pay off earlier investors in my scheme. I admit that as a result of
16 my scheme, I fraudulently obtained approximately \$3.1 million from approximately 23 investors,
17 the majority of whom resided in the San Francisco Bay Area.

18 I also caused to be used wires in foreign commerce to carry out essential elements of my
19 scheme. Specifically, on or about February 8, 2002, to execute this scheme and artifice to
20 defraud, I caused to be wired in foreign commerce an electronic fund transfer in the amount of
21 \$10,000 to me (in the Northern District of California) from victim Jovina O. (in the Philippines).
22 That \$10,000 was supposed to be an "investment" in my scheme.

23 In addition, I conducted financial transactions involving property that I knew represented
24 proceeds of my mail and wire fraud scheme with the intent to promote the carrying out of that
25 scheme. For example, on or about November 3, 1998, to promote the carrying out of my scheme,
26 I mailed a "lulling" payment check to victim Adam S. in the amount of \$10,000, money which I
27 knew represented proceeds of my mail and wire fraud scheme.

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1 Unauthorized Use of Access Devices

2 During the time period from about March 2002 through about February 2003, I
3 knowingly used unauthorized access devices, specifically other persons' credit cards, to obtain
4 things of value far in excess of \$1,000. For example, I convinced victims Donna A. and Maria
5 D. to provide their personal information, including credit cards and credit card numbers, to me in
6 connection with their investment in my mail and wire fraud scheme. I then used those credit
7 cards, without authorization, to obtain things like food, clothing, airline tickets, cash advances,
8 and entertainment. Specifically, with an intent to defraud, I used without authorization Donna
9 A.'s AT&T Universal cards ending in numbers 1855 and 6441; Donna A.'s Washington Mutual
10 Visa card ending in numbers 04377; Donna A.'s Capital One Mastercard ending in numbers
11 7411; Donna A.'s American Express card ending in numbers 42005; Donna A.'s Direct
12 Merchant Bank Mastercard ending in numbers 5334; and Donna A.'s Target Visa card ending in
13 numbers 3548. Through my use of those cards in the one-year period set forth above, I obtained
14 things of value aggregating approximately \$37,000. In all, I agree that I caused losses of more
15 than \$120,000 through my unauthorized use of access cards.

16 3. I agree to give up all rights that I would have if I chose to proceed to trial,
17 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
18 examine government witnesses; to remain silent or testify; to move to suppress evidence or raise
19 any other Fourth or Fifth Amendment claims; to any further discovery from the government; and
20 to pursue any affirmative defenses and present evidence.

21 4. I agree to give up my right to appeal my convictions, the judgment, and orders of
22 the Court. I also agree to waive any right I may have to appeal my sentence.

23 5. I agree not to file any collateral attack on my convictions or sentence, including a
24 petition under 28 U.S.C. §2255, at any time in the future after I am sentenced, except for a claim
25 that my constitutional right to the effective assistance of counsel was violated.

26 6. I agree not to ask the Court to withdraw my guilty pleas at any time after they are
27 entered, unless the Court decides to impose a sentence including a term of imprisonment of
28 greater than 63 months. I agree that the government may withdraw from this agreement if the

1 Court decides to impose a sentence including a term of imprisonment of fewer than 57 months.

2 7. I agree that the 2001 Sentencing Guidelines Manual should be applied to calculate
3 the applicable guideline range with respect to all counts of conviction in this case. With respect
4 to count seven (wire fraud), I agree that the Sentencing Guidelines should be calculated as
5 follows, and that I will not ask for any other adjustment to or reduction in the offense level or for
6 a downward departure of any kind:

- | | | | |
|----|----|---|----------|
| 7 | a. | Base Offense Level, U.S.S.G. § 2B1.1: | 6 |
| 8 | b. | Specific offense characteristics: | |
| 9 | | (1) Amount of loss more than \$2,500,000: | 18 |
| 10 | | (2) More than 10 but less than 50 victims: | 2 |
| 11 | c. | Acceptance of responsibility: | _____ -3 |
| 12 | | (If I meet the requirements of
U.S.S.G. § 3E1.1) | |
| 13 | d. | Adjusted offense level | 23 |

14 8. With respect to count eight (unauthorized use of access devices), I agree that the
15 Sentencing Guidelines should be calculated as follows, and that I will not ask for any other
16 adjustment to or reduction in the offense level or for a downward departure of any kind:

- | | | | |
|----|----|--|----------|
| 17 | a. | Base Offense Level, U.S.S.G. § 2B1.1: | 6 |
| 18 | b. | Specific offense characteristics: | |
| 19 | | (1) Amount of loss more than \$120,000 | 10 |
| 20 | | (2) Possession of 5 or more means of
identification | 2 |
| 21 | | | |
| 22 | c. | Acceptance of responsibility: | _____ -3 |
| 23 | | (If I meet the requirements of
U.S.S.G. § 3E1.1) | |
| 24 | d. | Adjusted offense level | 15 |

25 9. With respect to count eleven (money laundering), I agree that the Sentencing
26 Guidelines should be calculated as follows, and that I will not ask for any other adjustment to or
27 reduction in the offense level or for a downward departure of any kind:

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1	a.	Base Offense Level, U.S.S.G. § 2S1.1(a)(1):	26
2	b.	Specific Offense Characteristic: (Convicted under 18 U.S.C. § 1956)	2
3			
4	c.	Acceptance of responsibility: (If I meet the requirements of U.S.S.G. § 3E1.1)	<u> -3</u>
5			
6	d.	Adjusted offense level	25
7			

8 I agree that, regardless of any other provision in this agreement, the government may and will
9 provide to the Court and the Probation Office all information relevant to the charged offenses or
10 the sentencing decision.

11 10. I agree that an appropriate disposition of this case is as follows: a term of
12 imprisonment of 57 months or 63 months; 3 years supervised release (with conditions to be fixed
13 by the Court); no fine; restitution in an amount to be determined by the Court; and forfeiture to
14 the government of any property or assets, including but not limited to the approximately \$17,000
15 cash, seized on or about the date I was arrested.

16 11. In return for the government’s promises set out below, I agree to pay restitution
17 for all the losses caused by all the schemes or offenses with which I was charged in this case, and
18 I agree that the amount of restitution will not be limited to the loss attributable to the counts to
19 which I am pleading guilty, pursuant to 18 U.S.C. § 3663(a)(3). I agree that I will make a good
20 faith effort to pay any forfeiture or restitution I am ordered to pay. I agree not to contest, or assist
21 others in contesting, the forfeiture to the government of any property or assets, including but not
22 limited to the approximately \$17,000 cash, seized on or about the date I was arrested. I agree to
23 execute any documents required to effectuate my agreement to forfeit assets to the government. I
24 agree to prevent the disbursement of any money or assets derived from unlawful activities, if said
25 disbursements are within the my direct or indirect interest or control. Before or after sentencing,
26 I will, upon request of the Court, the government, or the U.S. Probation Office, provide accurate
27 and complete financial information, submit sworn statements and give depositions under oath
28 concerning my assets and my ability to pay, surrender assets I obtained as a result of my crimes,

1 and release funds and property under my control in order to pay any fine, forfeiture, or restitution.

2 I agree to pay the special assessment at the time of sentencing.

3 12. I agree not to commit or attempt to commit any crimes before sentence is imposed
4 or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial
5 release (if any); intentionally provide false information to the Court, the Probation Office,
6 Pretrial Services, or the government; or fail to comply with any of the other promises I have
7 made in this Agreement. I agree that, if I fail to comply with any promises I have made in this
8 Agreement, then the government will be released from all of its promises in this agreement,
9 including those set forth in paragraphs 14 through 16 below, but I will not be released from my
10 guilty pleas.

11 13. I agree that this Agreement contains all of the promises and agreements between
12 the government and me, and I will not claim otherwise in the future.

13 14. I agree that this Agreement binds the U.S. Attorney's Office for the Northern
14 District of California only, and does not bind any other federal, state, or local agency.

15 The Government's Promises

16 15. The government agrees to move to dismiss any open charges pending against the
17 defendant in the captioned superseding indictment at the time of sentencing.

18 16. The government agrees not to file or seek any additional charges against the
19 defendant that could be filed as a result of the investigation that led to the captioned indictment.

20 17. The government agrees to recommend a sentence of imprisonment at the low end
21 of the guideline imprisonment range determined by the Court.

22 18. The government agrees to recommend that the counts of conviction should be
23 grouped pursuant to U.S.S.G. § 3D1.2, and that no upward adjustment pursuant to U.S.S.G. §
24 3D1.4 is appropriate..

25 The Defendant's Affirmations

26 19. I confirm that I have had adequate time to discuss this case, the evidence, and this
27 Agreement with my attorney, and that she has provided me with all the legal advice that I
28 requested.

1 20. I confirm that while I considered signing this Agreement, and at the time I signed
2 it, I was not under the influence of any alcohol, drug, or medicine.

3 21. I confirm that my decision to enter a guilty plea is made knowing the charges that
4 have been brought against me, any possible defenses, and the benefits and possible detriments of
5 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
6 one coerced or threatened me to enter into this agreement.

7 Dated: October ____, 2003

NIMFA M. BEREDO (aka Patricia Beredo)
Defendant

8
9 Dated: October ____, 2003

KEVIN V. RYAN
United States Attorney

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W. DOUGLAS SPRAGUE
Assistant United States Attorney

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13 I have fully explained to my client all the rights that a criminal defendant has and all the
14 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
15 and all the rights she is giving up by pleading guilty, and, based on the information now known
16 to me, her decision to plead guilty is knowing and voluntary.

17 Dated: October ____, 2003

JOYCE LEAVITT
Attorney for Defendant

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